

HON. EDWARD F. SHEA

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE

EDWARD COLLINS,

Plaintiff,

vs.

BISHOP, WHITE &
MARSHALL, P.S., a Washington
corporation,

Defendants.

No. CV-10-324-EFS

DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

Noted for hearing:
March 25, 2011 at 6:30 pm

I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 56, defendant Bishop, White, Marshall & Wiebel, P.S. ("Bishop") moves to dismiss the complaint filed by plaintiff Edward Collins ("Collins") for the reasons set forth in Defendant's Memorandum in Support of Summary Judgment, and specifically:

(1) The Miller's Fair Debt Collection Practices Act ("FDCPA") claim should be dismissed under the bona fide error defense, where the sole allegation is that Bishop commenced a case in the wrong county, and this unintentional error occurred despite procedures reasonably adapted to avoid such error. If dismissal of the FDCPA claim is denied, the Court should limit damages to a *de minimus* amount for this trivial lawsuit based on applicable legal authority.

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1 (2) The Millers Washington Consumer Protection Act (“CPA”) claim fails
2 where the Millers are unable to support various elements of the five-part test set
3 forth in *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105
4 Wn.2d 778, 780, 719 P.2d 531 (1986).

5 II. POINTS AND AUTHORITIES

6 Bishop is concurrently filing a Memorandum of Points and Authorities in
7 support of this motion, in conformity with Eastern District Local Rule 7.1(b), as
8 well as a Statement of Facts in conformity with Eastern District Local Rule 56.1.

9 III. CONCLUSION

10 For reasons set forth above and in Bishop’s Memorandum of Points and
11 Authorities, Bishop requests this Court to dismiss plaintiff’s complaint.

12 IV. PROPOSED ORDER

13 A proposed order is being provided with this motion.

14 DATED: February 1, 2011

15 LEE SMART, P.S., INC.

16 By: s/ Marc Rosenberg

17 Marc Rosenberg, WSBA No. 31034

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